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Attorneys for Trustee

UNITED STATES BANKRUPTCY COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
Alexandria Division

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In re:

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TYRONE A. CONARD,

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Case No. 14-10093-KHK

JOYCE L. CONARD,

\*

(Chapter 7)

Debtor(s).

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TRUSTEE'S MOTION TO SELL PROPERTY OF THE ESTATE  
AND TO APPROVE ASSET PURCHASE AGREEMENT

Kevin R. McCarthy, Trustee moves the Court for authorization to sell property of the estate pursuant to 11 U.S.C. § 363(b), Federal Rule of Bankruptcy Procedure 6004(a)-(b), the Court's Order Approving Compromise entered on May 28, 2014 (D.E. 28) ("the Compromise Order"), the Court's Order Directing Debtor To Show Cause Why He Should Not Be Held In Civil Contempt For Failure To Obey Court Order, And Authorizing Trustee To Collect Commissions Directly From American Income Life Insurance Company entered on June 2, 2017 ("the Show Cause Order") (D.E. 48), and the Consent Order Finding Debtor In Civil Contempt And Authorizing Trustee To Collect Forty Percent Of Commissions Directly From American Income Life Insurance Company Beginning October 31, 2017 To Purge Contempt entered on June 27, 2017 (D.E. 52) ("the Civil Contempt Order") on the terms and conditions set forth in his Notice Of Motion To Sell Property Of The Estate ("Sale Notice") filed simultaneously with this Motion, to approve the Asset Purchase Agreement ("APA") attached hereto, and to take any actions provided in the Sale Notice and APA without further Order of the Court, namely:

**PROPERTY FOR SALE:** 40% of all commissions payable by American Income Life Insurance Company (which term shall include any successors, assigns, subsidiaries, or affiliates) post-petition (*i.e.*, after January 28, 2014) to either Debtor or any business entity in which either Debtor has or had an ownership interest or management control including Conard Insurance Agency and Allcare Financial (together, “Conard”) (“the Property”). The Property also shall include commissions due and payable after April 1, 2018 even if already paid to the Trustee prior to closing.

**TYPE OF SALE:** Private.

**PRIVATE SALE PRICE:** \$130,000, with a break-up fee of \$13,000 subject to Court approval if the Property is sold to a higher bidder. The Asset Purchase Agreement is attached as Exhibit A to the Motion.

**APPRAISAL VALUE:** Not available. The Trustee has marketed the Property (and will continue to market the Property until at least the expiration of the objection period) through his sales agent Auction Markets, LLC and has obtained an Agent’s Financial Analysis from American Income Life Insurance Company estimating a present value of the Property based on two sets of assumptions at either \$142,561 or \$275,293. The Property is a slowly diminishing asset because it is a right to collect insurance commissions over time based on insurance policies only so long as the policies remain in effect or are renewed.

**BUYER:** West Coast Servicing, Inc. or its designated assignee.

**TIME AND PLACE OF SETTLEMENT:** 15<sup>th</sup> day after Court approval or, if the Court orders that the 14-day stay period under Federal Rule of Bankruptcy Procedure 6004(h) for an order authorizing sale not apply, within 2 business days after Court approval of the Motion. Closing shall occur at the offices of the Trustee’s attorney.

**SALES AGENT:** Auction Markets, LLC.

**COMPENSATION TO SALES AGENT:** Ten percent (10%) of the sale price, plus marketing expenses not to exceed \$500.

**LIENS:** None. The Internal Revenue Service filed a secured claim for \$11,802.22, which the Trustee previously paid in full as authorized by the Consent Order Re Debtor’s Motion For Early Distribution entered on September 9, 2014 (D.E. 40).

**DEBTORS’ EXEMPTIONS:** None.

**TAX CONSEQUENCES TO ESTATE BY SALE:** The Trustee estimates that the estate will incur a tax liability of approximately \$33,000 in federal and state taxes from the sale.

**NET SALE PROCEEDS ESTIMATED TO BE PAID TO ESTATE:** The Trustee estimates that net sale proceeds to the estate after payment of the sales agent’s commission and expenses and federal and state income taxes (and before payment of Trustee compensation and legal expenses, which will be applied for at a later date) will be approximately \$83,500.

**APPLICABILITY OF 11 USC § 363(m) AND FEDERAL RULE OF BANKRUPTCY PROCEDURE 6004(h).** Entry of an Order granting the Trustee’s Motion will constitute a Court determination that the Buyer is a good faith purchaser and that the Order be immediately effective.

Wherefore, the Trustee requests the Court to enter the attached proposed Order.

Respectfully submitted,

/s/ Kevin R. McCarthy  
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Attorneys for Trustee

#### CERTIFICATE OF SERVICE

I hereby certify that on the 30<sup>th</sup> day of March, 2018 I served a copy of the foregoing, including the attached proposed Order, through the court's ecf system on all registered ecf participants who have appeared in this case, and by mail to:

American Income Life Insurance Company  
Attention: Roger Smith, CEO, AIL Agency Division  
1200 Wooded Acres Dr.  
Waco, Texas, TX 76710

American Income Life Insurance Company  
Attention: Steven K. Greer, President, AIL Agency Division  
1200 Wooded Acres Dr.  
Waco, Texas, TX 76710

/s/ Kevin R. McCarthy  
Kevin R. McCarthy